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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICANTS : EDGAR DIESSEL ET AL.
SERIAL NO. : 10/606,301
FILED : June 25, 2003
FOR : METHOD FOR IMPEDIMETRIC DETECTION OF ONE OR
MORE ANALYTES IN A SAMPLE, AND DEVICE FOR USE
THEREIN
ART UNIT : 1641
EXAMINER : L. Y. B. Lum

November 24, 2004

Hon. Commissioner of Patents
P.O. Box 1450
Alexandria, VA 22313-1450

RESPONSE TO RESTRICTION REQUIREMENT

SIR:

In response to the restriction requirement dated August 24, 2004, Applicants hereby elect with traverse to prosecute in this application the subject matter of Group I, claims 1-30.

CONDITIONAL PETITION FOR EXTENSION OF TIME

If entry and consideration of the amendments above requires an extension of time, Applicants respectfully request that this be considered a petition therefor. The Commissioner is authorized to charge any fee(s) due in this connection to Deposit Account No. 14-1263.

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Reply to Restriction Requirement Dated August 24, 2004

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ADDITIONAL FEE

Please charge any insufficiency of fees, or credit any excess, to Deposit Account No. 14-1263.

REMARKS

Applicants expressly reserve the right to prosecute the non-elected subject matter in a divisional application, if necessary.

Regarding the traversal, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement. An essential element of any restriction requirement is that a serious burden will be occasioned on the patent examiner if restriction is not insisted upon. *See, Manual of Patent Examining Procedure*, § 803.01. Thus, even if the two groups are patentably distinct, the patent examiner must, nevertheless, examine the two groups together if such examination can be made without serious burden. While in the present case, the Examiner has outlined different fields of search for the two groups, and, thereby, made a case that the two groups are patentably distinct, Applicants believe that the Examiner should be able to examine the two groups without serious burden. In this regard, Applicants believe that it will be necessary for the Examiner to consider the novelty and nonobviousness of the non-elected device while considering the novelty and nonobviousness of the elected method claims. Therefore,

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Applicants believe that the Examiner can examine both groups of claims in this single application without serious burden. Consequently, Applicants respectfully request that the Examiner reconsider and withdraw the restriction requirement.

Early and favorable action is earnestly solicited.

Respectfully submitted,

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By 

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CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that the foregoing Response to Restriction Requirement (3 pages total) is being facsimile transmitted to the United States Patent and Trademark Office on the date indicated below:

Date: November 24, 2004

By 

Kurt G. Briscoe